IN RE: PETITION FOR SPECIAL EXCEPTION Labrinth Road

S/S Smith Avenue, 110' W of \* DEPUTY ZONING COMMISSIONER (3115 Smith Avenue) \* OF BALTIMORE COUNTY 3rd Election District

2nd Councilmanic District ■ Case No. 90-61-SPX

Sheldon H. Zeller, D.C. Petitioner \* \* \* \* \* \* \* \* \* \*

## AMENDED ORDER

WHEREAS, the Petitioner requested a special exception to permit a doctor's office (home occupation) on the subject property on a part-time basis, in accordance with the plan submitted and identified as Petitioner's Exhibit 1;

WHEREAS, by Order issued August 30, 1989 the relief requested was granted, subject to restrictions;

WHEREAS, Counsel for Petitioner submitted a request for modification of Restriction No. 7 of said Order to permit an identification sign in compliance with the Zoning Regulations;

WHEREAS, the Deputy Zoning Commissioner concurs that a modification is appropriate in this instance;

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this \_\_\_\_\_\_ day of November, 1989 that Restriction No. 7 of the Order issued August 30, 1989 be and the same is hereby AMENDED to read as

> "7) Petitioner shall be permitted to erect one (1) small identification sign in strict compliance with the Zoning Regulations. A design plan depicting the size and contents of the proposed sign shall be submitted to the Deputy Zoning Commissioner for approval prior to the issuance of any permits"; and,

IT IS FURTHER ORDERED that all other conditions and restrictions contained in the Order issued August 30, 1989 shall remain in full force and effect.

> C- M Nestrowia ANN M. NASTARCWICZ Deputy Zoning Commissioner for Baltimore County

cc: Stephen S. Winegrad, Esquire, Kantor & Winegrad, McDonogh Crossroads, Suite 215, 20 Crossroads Drive, Owings Mills, Md. 21117

People's Counsel

File

Petitioner would be required to return, and be responcondition.

3) The only equipment permitted in the office will be a chiropractic table. At no time shall diagnostic equipment, including, but not limited to, xray equip-

to create one additional parking space for patient parking need not be completed at this time. Installation will only be required in the event the Office of Zoning notifies Petitioner in writing that a parking

shall be filed by Petitioner within seventy-five (75) days of the date of this Order.

sible for returning, said property to its original

The special exception granted herein is limited to Dr. Zeller and his use of 825 sq.ft. of the subject property to practice chiropractic in the area designated as office space on Petitioner's Exhibit 1.

ment, be permitted on the premises.

4) Petitioner shall at no time see patients at the subject location more than 10 hours per week. Further, Dr. Zeller shall keep detailed records regarding dates, times and patients seen at this location and shall permit the review of same by the Office of Zoning upon request.

Upon request and reasonable notice, Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

6) The proposed extension of the existing driveway problem appears to exist.

7) There shall be no signs advertising the use c a portion of the subject property for a professional office.

8) There shall be no more than one part-time, nonprofessional, non-resident person employed to assist Dr. Zeller in the operation of his practice on the subject property.

9) Within sixty (60) days from the date of this Order, a new deed shall be filed in the Land Records for Baltimore County which references this case and sets forth the restrictions and conditions contained herein. Proof of compliance with this restriction IN RE: PETITION FOR SPECIAL EXCEPTION 3/S Smith Avenue, 110' W of

\* DEPUTY ZONING COMMISSIONER Labrinth Road (3115 Smith Avenue) \* OF BALTIMORE COUNTY 3rd Election District 2nd Councilmanic District \* Case No. 90-61-SPX

Sheldon H. Zeller, D.C. Petitioner \* \* \* \* \* \* \* \* \* \* \*

## FINT INGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception to permit. a doctor's office (home occupation) on the subject property on a part-time basis, in accordance with Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by Stephen S. Winegrad, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 3115 Smith Avenue, consists of 0.303 acres zoned D.R. 3.5 and is improved with a single family dwelling which has been Petitioner's residence for the past year. Dr. Zeller test ...ed he received his B.S. from the University of Maryland and subsequently attended the Life Chiropractic College in Marietta, Georgia from 1982 to 1984, which was followed by a residency at the Cleveland Chiropractic College from 1984 through the end of 1985. Shortly thereafter, Dr. Zeller was licensed to practice in Maryland and has been practicing chiropractic for the past 3 years with another chiropractor out of an office on Reisterstown Road in the Cherryvale Shopping Center. Dr. Zeller testified that he works approximately 40 hours a week at this location and plans to continue to practice out of those offices but is desirous of setting up a small office in his home as set forth in Petitioner's Exhibit 1, not to exceed the 25% requirement. Testimony indicated that the proposed office will have no equipment other than an

adjustable table and ice packs. There will be no exterior changes to the existing dwelling, a two-story bi-level which has an exterior entrance to the area designated on Petitioner's Exhibit 1 as the proposed location for his office. Dr. Zeller testified that at no time will the office be used for more than 10 hours per week. Due to the setup, Dr. Zeller will not have two patients arriving at the same time. Testimony presented indicated that Dr. Zeller's driveway is adequate to park four vehicles at any one time without creating traffic problems. Presently, only Dr. Zeller and his wife park their vehicles in the driveway. Dr. Zeller testified that he has spoken with his neighbors who have voiced no objections. In fact, the adjoining property owner who would be most adversely affected by the proposed use, is Louis Shugarman, who by letter dated August 9, 1989 indicated he has no objections to Dr. Zeller's request. Testimony indicated that directly across from the property is the Pikesville Senior High School parking lot. Dr. Zeller addressed each of the requirements set forth in Section 502.1 and indicated the conditions imposed therein would be met by the proposed use. Testimony further indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the community.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 3.5 zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner

10) A landscaping plan for the subject property shall be submitted for review and approval by the Baltimore County Landscape Planner. A copy of the approved plan shall be submitted to this office for inclusion in the case file.

ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

AMN:bjs

Zoning Description

BEGINNING for the same and being known and designated as Lot No. 5, Block J, as shown on the Plat entitled, "Section 4, Green Spring Manor", which Plat is recorded among the Land Records of Baltimore County in Liber 21, folio 77. The improvements thereon being known as No. 3115

The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a spe-

cial exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981). The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes

has shown that the proposed use would be conducted without real detriment

to the neighborhood and would not adversely affect the public interest.

of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R. After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restric-

tions as more fully described below. Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the

relief requested in the special exception should be granted. THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of August, 1989 that the Petition for Special Exception to permit a doctor's office (home occupation) on the subject property on a part-time basis, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioner may apply for his occupancy permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the

## PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-61-X The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for A doctors Home office on a part-time basis

Property is to be posted and advertised as prescribed by Zon ng Regulations. I, or we, agree to pay expenses of above Special Exception ad ertising, posting, etc., upon fi ing of this petition, and further agree to and are to be bound by the oning regulations and restrict ons

of Baltimore County adopted pursuant to the Zoning Law for Bal imore County. I/W a do solemnly declare and affirm. under the penalties of perjury, that I we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):	_ 6
(Type or Print Name)		MAP NW F
Cimpanne	Quy H Kin F	$\frac{2\zeta}{2}$
Signature	Signature	2.03
Address	(Type or Print Name)	CATE 149/
The state of the s		200

AVENUE T-01-115 108

> ess and phone number of legal owner, conaser or representative to be contacted DON H. ZELLER, D.C. 3115-SMITH AVE. eve. 486 0199 e Count , this \_\_\_\_\_\_\_ 123

DRE, MARYLAND 21208

t matter of this petition be advertised as required by the Zoning Law of Baltimore County, in two newspap rs of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore

ESPIRATED LENGTH OF HEARING -1/CHR. OV

B 012\*\*\*\*\*10000:a 374@F

VALIDATION OR SIGNATURE OF CASHIER

Contract Purchaser:

BALTIMORE COUNTY, MARYLAND

MISCELLANEOUS CASH RECEIPT

OFFICE OF FINANCE - REVENUE DIVISION

3113 Smith Avenue Baltimore, Md 21208

August 9, 1989

To Whom It May Concerns

My name is Lou Shugarman. I own and reside on the property adjacent to 3115 Smith Avenue for which a hearing is scheduled to be held on 8/25/89. I wish to inform you that I have no objections or reservations whatsoever as to the special exception for use as Dr. Zeller's home office. I feel that it will actually be a benefit for the neighborhood as there are currently no Chiropractors here.

Sincerely,

KANTOR & WINEGRAD

MCDONOGH CROSSROADS SUITE 215 20 CROSSROADS DRIVE OWINGS MILLS, MARYLAND 21117

November 17, 1989

110V 20 1989

ZONING OFFICE

(301) 581-0600

(301) 581-0458

Ms. Ann M. Nastarowicz Deputy Zoning Commissioner Office of Planning and Zoning Towson, Maryland 21204

Re: Petition For Special Exception S/S Smith Avenue, 110' W of Labrinth Road 3rd Election District - 2nd Councilmanic District Sheldon H. Zeller, D.C., Petitioner Case No. 90-61-X

Cear Ms. Nastarowicz:

STANLEY KANTOR

ROBERT M. WINEGRAD

STEPHEN S. WINEGRAD

F, KIRK KOLODNER

First, I would like to thank you for passing an Amended Order in the above-referenced matter.

Second, I enclose herein a copy of the Deed and receipt reflecting its being recorded on November 9, 1989. Unfortunately, the Deed was recorded prior to my receiving unfortunately, the beed was recorded prior to my receiving your Amended Order so it will be necessary to file a Confirmatory Deed which I am in the process of so doing. As soon as that is done I will promptly forward verification to your office.

Thank you once again for your kind consideration. Respectfully,

SSW: sue Enclosure

KANTOR & WINEGRA McDONOGH CROSSROADS

STANLEY KANTOR ROBERT M. WINEGRAD F. KIRK KOLODNER STEPHEN S. WINEGRAD

SUITE 215

20 CROSSROADS DRIVE

OWINGS MILLS, MARYLAND 21117 ZOWING OF CHICAGO (301) 581-0455

September 15, 1989

Ms. Ann M. Nastarowicz Deputy Zoning Commissioner Office of Planning and Zoning Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION S/S Smith Avenue, 110' W of Labrinth Road 3rd Election District - 2nd Councilmanic District Sheldon H. 7-11er, D. C. - Petitioner Case No. 90-51-X

Dear Ms. Nastarowicz:

I have received your Findings of Fact and Conclusions of Law, and have discussed it with my client. He is appreciative of your granting his Petition, and wishes at this time to pursue setting up his home office.

His one concern was Paragraph No. 7 of your Order prohibiting the use of a sign on his property. I would have expected that he would be permitted to use a sign in accordance with the Baltimore County Zoning regulations. It was his intention to use a small, relatively inconspicuous sign simply to notify to use a small, relatively inconspicuous sign simply to notify patients that would be using the office where he is located. At the hearing, Doctor Zeller testified that many other homes along Smith Avenue are being used as offices. Most, if not all, of those offices do use small signs.

I would appreciate your considering amending your Order to delete Paragraph No. 7. Considering there were no Protestants at the hearing, it is apparent that none of the neighbors object to his use of his home as a part-time office. It is reasonable to expect that along with that, Doctor Zeller would have placed a small sign at the edge of his property.

I appreciate your consideration for Doctor Zeller in this

Respectfully,

Stephen 5. Wheneging Stephen S. Winegrad

SSW:bas

matter.

20 Clossoods on Busy Mills my Stopky Winegras STEPHEN S. WINEGRAD KANTOR & WINEGRAD CERTIFICATE OF POSTING Afredon H Beller D.C. Location of property: 55 of Amith avenue 110 E of Jabryrinth Prod 3115 Smith avenue Location of Signer an front of 3115 Smith arene Date of return: Quefust 8-49 Call Alida Verwey at 484. (19 CERTIFICATE OF PUBLICATION NOTICE OF HEARING The Zoning Commissioner of Beltimore County, by authority of the Zoning Act and Regulations of Beltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Cheespeake Avenue in Townon, Maryland £1204 on followers. THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Petition for Special Execption Petition for Special Exception
Case number: 90-61-X
SS Smith Avenue, 110' W of
Labyrinth Road
3115 Smith Avenue
3rd Election District
2rd Councilmentic THE JEFFERSONIAN, Petitioner(s): Sheldon H. Zeller, D.C. August 25, 1989 at 9:30 a.m. Special Exception: A doctor's home office on a pert-time basis. In the event that this Pwition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuence of said permit during this period for good cause shown. Such request first be in writing and received in this office by the PO 15123

ry 31064

90-61-7

price \$ 37.43

and received in this office by the date of the inearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County

PETITIONER(S) SIGN-IN SHEET

PLEASE PRINT CLEARLY

THIS DEED, made this 23rd day of October, 1989 by and between Sheldon H. Zeller, of Baltimore County, State of Maryland of the first part, and Sheldon H. Zeller, of Baltimore County, State of Maryland of the second part.

WITNESSETH that for zero consideration (\$0) the said Sheldon H. Zeller does grant and convey to the said Sheldon H. Zeller, his Personal Representatives and Assigns in fee simple, all that lots of ground situate in Baltimore County and described as follows, that is to say:

BEGINNING for the same and being known and designated as lot No. 5, Block J, as shown on the Plat entitled, "Section 4, Green Spring Manor", which Plat is recorded on the Land Records of Baltimore County in Liber 21, folio 77. The improvements thereon being known as No. 3115 Smith Avenue.

BEING the same lot of ground which by Deed dated August 26, 1979 and recorded among the Land Records of Baltimore County in Liber 7956, folio 255, was granted and conveyed by Stephen L. Miles and Eileen R. Brafmann, formerly known as Eileen R. Miles, to Sheldon H. Zeller.

Sheldon H. Zeller, Grantee in the within Deed, hereby certifies under the penalty of perjury that the land conveyed in said Deed is residentually improved owner-occupied real property and that the residence will be occupied by me.

TOGETHER with the buildings thereupon, and the rights, alleys, ways, orders, privileges, appurtenances, and advantages thereto belonging, or in any way appurtaining. TO HAVE AND TO HOLD the said described lot of ground and

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

Dennis F. Rasmussen

& post set(s), there

Sheldon H. Zeller, D.C. 3115 Smith Avenue Baltimore, Maryland 21208

Petition for Special Exception CASE NUMBER: 90-61-X SS Smith Avenue, 110' W of Labyrinth Road 3115 Smith Avenue 3rd Election District - 2nd Councilmanic Petitioner(s): Sheldon H. Zeller, D.C. HEARING SCHEDULED: FRIDAY, AUGUST 25, 1989 at 9:30 a.m.

Dear Petitioner:

Please be advised that \$59.63 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to benin

RALTIMORE COUNTY, MARYLAND int for each such set OFFICE OF FINANCE - REVENUE DIVISION NISCELLANEOUS CASH RECEIPT 101-615-000 B B 017\*\*\*\*\*5993:a 2283f VALIDATION OR SIGNATURE OF CASHIER

Aug: 24,1989

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

J. Robert Haines Zoning Commissioner

DATE: August 15, 1989

Pat Keller, Deputy Director Office of Planning and Zoning

Sheldon Zeller, Item 517
SUBJECT: Zoning Petition No. 90-61-X

The petitioner requests a special exception to use this residence for a doctor's office on a part-time basis. In reference to this request, staff recommends the following restrictions should the special exception be granted.

- A landscape plan must be filed that conforms with current regulations. Plant screening the parking area should be provided between adjacent resionnces along the east and west property lines. The Plan should be submitted and reviewed by the Baltimore County Landscape Planner.
- All of the restrictions set forth in Special Exception Case No. 89-534-X should be considered in this case at the Zoning Commissioner's discretion.

PK/JL/sf

Beltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Juilding, Suite 405
Towson, Maryland 21204
(301) 887-3554

July 24, 1989

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, MD 21204





ZONING OFFICE

The Bureau of Traffic Engineering has no comments for items number 493, 511, 513, 516, 512, 519, 520, 521, 522, 524, 528, 529, 530, 531, 532, and 533.

Traffic Engineer Associate II

MSF/lab

Baltimore County Fire Department 800 York Road Towson, Maryland 21204-2586 (301) 887-4500 Paul H. Reincke

JUNE 14, 1989

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

SHELDON H. ZELLER RE: Property Owner:

Location:

#3115 SMITH AVENUE

Zoning Agenda: JUNE 13, 1989

Item No.: Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Eureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property. 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

JUN 1 5 1939

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE TO: Zoning Advisory Committee DATE: June 22, 1989 FROM: Robert W. Bowling, P.E. RE: Zoning Advisory Committee Meeting for June 13, 1989 The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521, 522, 524, 528, 529, 531, and 532. For Item 511, the minimum panhandle width for one lot is 20 feet, not 10 feet as shown on the plan. For Items 513, 516 and 533 the previous County Review Group Comments still apply. For Item 519, all lots must have in-fee frontage to a public road. For Item 530, comments resttached

At resposed 25 N. 05 52 20 W. LEXIS DRAINAGE & 4 TLITY EASEMENT 163.72

RWB:s

Encl.

ROBERT W. BOWLING, P.E., Chief Developers Engineering Division